THE HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 18778 OF 2005

Date: 11.07.2006

Dr. Y. Anjaneyulu.

... Petitioner

and

The State of Andhra Pradesh, rep., by its Prl.Secretary to Govt. Animal Husbandry,Dairy Development & Fisheries (AH.I) Dept, Secretariat, Hyderabad and another.

... Respondents.

THE HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 18778 OF 2005

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Aggrieved by the order passed in O.A.No. 1508 of 2002 dated 25.05.2005, the present writ petition is filed.

The petitioner herein, the applicant in the O.A., was initially appointed as a Veternary Surgeon in the Animal Husbandry department on 12.11.1979 and was promoted as an Asst. Director on 13.04.1995. He was appointed as an Additional Private Secretary to the Minister for Marketing & Warehousing and assumed charge on 08.09.1995. The petitioner was placed under suspension pending enquiry, vide G.O.Ms.No. 12 dated 03.02.1996, and was subsequently issued charge memo dated 18.09.1997 wherein five charges were framed against him. An enquiry officer was appointed vide G.O.Ms.No. 376 dated 14.12.2000. A detailed enquiry was conduced wherein the statements of witnesses was recorded and the petitioner was provided an opportunity to cross-examine them. The enquiry officer, in his report dated 17.02.2001, held that the charges framed against the petitioner were not proved.

The 1st respondent differed with the views of the enquiry officer and held the petitioner guilty of the charges. The 1st respondent, vide memo dated 10.07.2001, directed the petitioner

herein to show cause as to why a major penalty should not be imposed on him besides recovery of Rs.80,000/-, being the loss suffered to the government property i.e., the Car which met with the accident. The petitioner was informed that the government had disagreed with the findings of the enquiry officer in view of the statement of the driver. The petitioner sought for copies of the statements recorded by the enquiry officer to enable him to submit his explanation to the show cause notice. However, memo dated 04.09.2001 was issued rejecting the petitioner's request for being furnished copies of the statements of the witnesses. The petitioner submitted a detailed explanation to the show cause notice on 13.09.2001.

In the criminal case instituted earlier against the petitioner and his friend in Cr.No. 27 of 1996 under Sections 337 and 177 IPC and Section 7 and 8(B) of the A.P. Excise and Prohibition Act, the Additional Judicial Magistrate of I Class, Sanga Reddy, by judgment dated 11.05.1998, convicted them of the offences under Sections 337 and 177 IPC. Aggrieved thereby, the petitioner preferred Criminal Appeal No. 57 of 1998 before the Sessions Judge, Sangareddy. By judgment dated 03.07.2000, the petitioner's appeal was partly allowed and his conviction under Section 337 IPC was set aside. However his conviction under Section 177 IPC was confirmed and the punishment reduced by imposing a fine of Rs.500/-. Aggrieved thereby, the petitioner preferred criminal R.C.No.930 of 2000 and this Court allowed the revision setting aside the conviction.

The petitioner's explanation to the show cause notice, dated 10.07.2001, was rejected by the 1st respondent and, vide G.O.Ms.No. 2 dated 08.01.2002, the petitioner was dismissed from

service. Petitioner would refer to Rule 21(2) of the A.P.C.S. (C.C.A) Rules, whereunder the disciplinary authority, if he disagrees with the findings of the enquiring authority on any article of charge is required to record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose, and submit that the 1st respondent ought not to have relied solely on the evidence of the driver. Petitioner would also contend that the punishment imposed by the 1st respondent was shockingly disproportionate to the charge held proved.

The Administrative Tribunal, while taking note of the fact that the enquiry officer had held that while charge No.1 could not be proved decisively and Charge No.5 was partly proved in so far as it related to maintaining absolute discipline and a sense of propriety and that the Government had disagreed with the findings of the Enquiry officer on all five charges, held that the direct evidence of the Car driver who accompanied the petitioner in the Car was conclusive and it could not, therefore, be said that no reasons were assigned by the government for differing with the findings of the enquiry officer. The Tribunal held that the disciplinary authority, while disagreeing the findings of the enquiry officer, had given reasonable opportunity to the petitioner. While holding that it could interfere in the matter only if the departmental enquiry was held in a manner inconsistent with the rules of natural justice or in violation of the statutory rules or if any matter extraneous to the evidence was taken into consideration or if the order was so wholly arbitrary and capricious that no reasonable person could arrive at that conclusion, the Tribunal held that the

departmental authorities, were the sole judges of facts and if there was some legal evidence on which their findings could be based the adequacy or reliability of that evidence was of no concern to the Tribunal. The Tribunal further held that there was legal evidence on record and that the disciplinary authority had accepted the legal evidence and had passed the impugned order. The Tribunal also held that Rules 20 and 21 of A.P.C.S. (CCA) Rules had been followed. In so far as the quantum of punishment is concerned, the Tribunal held that the charges levelled against the petitioner were serious, that the punishment imposed was not shockingly disproportionate and that it was commensurate with the gravity of the misconduct. The Tribunal declined to interfere with the impugned order which, according to it, was perfectly legal and valid and consequently the O.A. was dismissed.

Sri B. Adinarayana Rao, learned Counsel for the petitioner, would submit that, apart from the other grounds raised, the impugned order of punishment was liable to be set aside as it was bereft of reasons. Learned Counsel would submit that while the disciplinary authority, in its memo dated 10.07.2001 calling upon the petitioner to show cause as to why the punishment for dismissal from service should not be imposed, had informed him that it had disagreed with the findings of the enquiry officer and had given details on the basis of which it had chosen to disagree, after the petitioner had filed a detailed explanation thereto the impugned order of punishment was passed without considering any of the objections raised by the petitioner nor were any reasons assigned as to why the objections raised by the petitioner did not deserve acceptance. Learned Counsel would further submit that even in cases where the disciplinary authority chooses to disagree

with the findings of the enquiry officer, the delinquent employee was required to be put on notice of its intention to disagree and only after giving him an opportunity of being heard, could a decision be taken as to whether it should or should not disagree with the findings of the enquiry officer. Learned Counsel would submit that as the petitioner, was not put on notice prior to the decision of the disciplinary authority to disagree with the findings of the enquiry officer, the impugned proceedings of punishment was vitiated for violation of principles of natural justice. Learned Counsel would place reliance on **Yoginath D. Bagde Vs. Stae of Maharashtra**[1] and **State Bank of India Vs. K.P. Narayanankutty**[2].

Before examining the aforesaid contentions, it is necessary to take note of the relevant rules. Rule 21 of the A.P.C.S. (C.C.A) Rules reads thus:

Rule 21. Action on the inquiry report:- (1) The disciplinary authority, if it is not itself the inquiring authority may, for reason to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 20 as far as may be.

(2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

(3) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not be inquiring authority to the Government Servant who shall be required to submit, if he/she so desires, his/her written representation or submission to the disciplinary authority within a reasonable time ordinarily not exceeding one month. It shall not be necessary to give the Government Servant opportunity of making representation on the penalty proposed to be imposed.

(i) Provided that, where the disciplinary authority disagrees with the whole or any part of the findings of the inquiring authority, the point or points of disagreement; together with a

brief statement of the grounds therefore shall be communicated along with the report of the inquiry.

(ii) Provided further that in every case where it is necessary to consult the Commission the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the Government Servant.

DISCIPLINARY AUTHORITY, BEFORE DECIDING TO DIFFER WITH THE FINDINGS OF THE ENQUIRY OFFICER MUST PUT THE DELINQUENT EMPLOYEE ON NOTICE:

Rule 21(2) requires the disciplinary authority, if it disagrees with the findings of the enquiry officer, to record reasons for such disagreement and record its own finding on such charge. Rule 21(3) requires the disciplinary authority to forward a copy of the enquiry report to the delinquent employee and give him a reasonable opportunity to submit his representation thereto. Proviso (1) thereunder also requires the disciplinary authority to communicate the points of disagreement, of the disciplinary with the findings of the enquiry officer and the statement of grounds to the delinquent employee along with enquiry report. The very purpose of furnishing the points of disagreement, and the grounds thereof, to the delinquent employee is to enable him to submit his representation thereto. The Rules afore extracted do not specifically require the disciplinary authority to put the delinquent employee on notice prior to the disciplinary authority recording his disagreement with the findings of the enquiry officer. Since the rules are silent in this regard, and it cannot be said that such an opportunity is excluded by necessary implication, principles of natural justice require the disciplinary authority, whenever, he intends to disagree with the enquiring authority, on some or all the

articles of charge, to record its tentative reasons for disagreement, to give the delinquent officer an opportunity to submit his representation thereto before it records its own findings on such charges.

In **Punjab National Bank v. Kunj Behari Misra**[3], the Supreme Court held thus:-

".....If the enquiry officer had given an adverse finding, as per *Karunakar case* (1993(4) SCC 727) the first stage required an opportunity to be given to the employee to represent to the disciplinary authority, even when an earlier opportunity had been granted to them by the enquiry officer. It will not stand to reason that when the finding in favour of the delinquent officers is proposed to be overturned by the disciplinary authority then no opportunity should be granted. The first stage of the enquiry is not completed till the disciplinary authority has recorded its findings. The principles of natural justice would demand that the authority which proposes to decide against the delinquent officer must give him a hearing. **When the enquiring officer holds the charges to be proved, then that report has to be given to the delinquent officer who can make a representation before the disciplinary authority takes further action which may be prejudicial to the delinquent officer. When, like in the present case, the enquiry report is in favour of the delinquent officer but the disciplinary authority proposes to differ with such conclusions, then that authority which is deciding against the delinquent officer must give him an opportunity of being heard for otherwise he would be condemned unheard. In departmental proceedings, what is of ultimate importance is the finding of the disciplinary authority.**

".....When the enquiry is conducted by the enquiry officer, his report is not final or conclusive and the disciplinary proceedings do not stand concluded. The disciplinary proceedings stand concluded with the decision of the disciplinary authority. It is the disciplinary authority which can impose the penalty and not the enquiry officer. Where the disciplinary authority itself holds an enquiry, an opportunity of hearing has to be granted by him. **When the disciplinary authority differs with the view of the enquiry officer and proposes to come to a different conclusion, there is no reason as to why an opportunity of hearing should not be granted.** It will be most unfair and iniquitous that where the charged officers succeed before the enquiry officer, they are deprived of representing to the disciplinary authority before that authority differs with the enquiry officer's report and, while recording a finding of guilt, imposes punishment on the officer. **In our**

opinion, in any such situation, the charged officer must have an opportunity to represent before the disciplinary authority before final findings on the charges are recorded and punishment imposed. This is required to be done as a part of the first stage of enquiry as explained in *Karunakar case*[4].

The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof, **whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer.** The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer……" (emphasis supplied)

In **Yoginath D. Bagde**[1], the Supreme Court held thus:-

Difficulties have arisen in all those cases in which the enquiring authority has recorded a positive finding that the charges were not established and the delinquent officer was recommended to be exonerated, but the disciplinary authority disagreed with those findings and recorded its own findings that the charges were established and the delinquent officer was liable to be punished. **This difficulty relates to the question of giving an opportunity of hearing to the delinquent officer at that stage. Such an opportunity may either be provided specifically by the rules made under Article 309 of the Constitution or the disciplinary authority may, of its own, provide such an opportunity. Where the rules are in this regard silent and the disciplinary authority also does not give an opportunity of hearing to the delinquent officer and records findings different from those of the enquiring authority that the charges were established, "an opportunity of hearing" may have to be read into the rule by which the procedure for dealing with the enquiring authority's report is provided principally because it would be contrary to the principles of natural justice if a delinquent officer, who has already been held to be "not guilty" by the enquiring authority, is found "guilty" without being afforded an opportunity of hearing on the basis of the same evidence and material on which a finding of "not guilty" has already been recorded.**

"……. But the requirement of "hearing" in consonance with the principles

of natural justice even at that stage has to be read into Rule 9(2) and **it has to be held that before the disciplinary authority finally disagrees with the findings of the enquiring authority, it would give an opportunity of hearing to the delinquent officer so that he may have the opportunity to indicate that the findings recorded by the enquiring authority do not suffer from any error and that there was no occasion to take a different view. The disciplinary authority, at the same time, has to communicate to the delinquent officer the "TENTATIVE" reasons for disagreeing with the findings of the enquiring authority so that the delinquent officer may further indicate that the reasons on the basis of which the disciplinary authority proposes to disagree with the findings recorded by the enquiring authority are not germane and the finding of "not guilty" already recorded by the enquiring authority was not liable to be interfered with…..**

In view of the above, a delinquent employee has the right of hearing not only during the enquiry proceedings conducted by the enquiry officer into the charges levelled against him but also at the stage at which those findings are considered by the disciplinary authority and the latter, namely, the disciplinary authority forms a tentative opinion that it does not agree with the findings recorded by the enquiry officer. **If the findings recorded by the enquiry officer are in favour of the delinquent and it has been held that the charges are not proved, it is all the more necessary to give an opportunity of hearing to the delinquent employee before reversing those findings. The formation of opinion should be tentative and not final. It is at this stage that the delinquent employee should be given an opportunity of hearing after he is informed of the reasons on the basis of which the disciplinary authority has proposed to disagree with the findings of the enquiry officer.** …..So long as a final decision is not taken in the matter, the enquiry shall be deemed to be pending. Mere submission of findings to the disciplinary authority does not bring about the closure of the enquiry proceedings. The enquiry proceedings would come to an end only when the findings have been considered by the disciplinary authority and the charges are either held to be not proved or found to be proved and in that event punishment is inflicted upon the delinquent. That being so, the "right to be heard" would be available to the delinquent up to the final stage. This right being a constitutional right of the employee cannot be taken away by any legislative enactment or service rule including rules made under Article 309 of the Constitution……" (emphasis supplied)

In **K.P. Narayanan Kutty**[2], the Supreme Court held thus:-

"…..In the case of Punjab National Bank also similar contentions were urged that the Punjab National Bank Officer Employees'

(Discipline and Appeal) Regulations, 1977 did not require that an opportunity of being heard be given to the delinquent officers when the disciplinary authority disagreed with the finding of the enquiring authority; once the enquiring authority had given hearing to them and if the decision was before Ramzan Khan's case, the Disciplinary authority was not required to give the copy of the enquiry report to the delinquent officer. In that view, it was not necessary to give a hearing to the case where disciplinary authority differs from the enquiry report. A Bench of learned three-Judges in the said case has specifically noticed in paragraph 11 as to the controversy that was required to be resolved in that case. The controversy in that case also related to the case where the disciplinary authority disagreed with the findings of the enquiring authority and Regulation 7(2) does not expressly state that when the disciplinary authority disagrees with the finding of the enquiring authority an opportunity is to be given. After referring to various decisions including the decisions relied on behalf of the Bank, this Court has clearly held that where the disciplinary authority disagrees with the report of the enquiring authority in regard to certain charges, providing of an opportunity is necessary to satisfy the principle of natural justice. Paragraph 19 of the said judgment reads thus :

". . . . . .The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof, whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the Enquiry Officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the Enquiry Officer. The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer."

"…… In our view, the controversy that is to be resolved in the present case arose for consideration in the said Punjab National Bank case directly. The said judgment in all force applies to the facts of the present case……" (emphasis supplied)

In **J.A. Naiksatam v. Prothonotary & Senior Master, High Court of Bombay**[4], the Supreme Court held thus:-

"……Even though the rule as such does not contemplate giving an opportunity to the appellant delinquents before the disciplinary authority takes a final decision to disagree with the reasons given by the enquiry officer, such a provision could be read into the rule….."

In **SBI Vs. Arvind K. Shukla**[5], the Supreme Court held thus:-

"….. The next question therefore is, as has been formulated earlier, whether the disciplinary authority was required to record its tentative reasons for disagreement and give to the delinquent officer an opportunity to represent before it recorded its ultimate findings. This question is concluded by a three-Judge Bench decision of this Court in the case of *Punjab National Bank* v. *Kunj Behari Misra*(1998)7 SCC 84……"

In its memo dated 10.07.2001 the Government, while enclosing a copy of the enquiry report and upon holding that charges 1 to 5 as framed in the disciplinary proceedings were held established and that the petitioner had committed misconduct in misutilising the Car, causing accident, and that on account of his negligence and breach of orders the petitioner had caused pecuniary loss to the government to a tune of Rs.80,000/-, held as under:

"A copy of the Enquiry Report is furnished herewith to Dr. Y. Anjaneyulu, Assistant Director (Animal Husbandry) (under suspension) under Rule 21 (4) of A.P.C.S. (CCA) Rules, 1991 and he is directed to show cause as to why a Major penalty should not be imposed on him, for the misconduct, besides recovery of Rs.80,000/- (Rupees eighty thousand only) being the pecuniary loss caused to the Government by his negligence and breach of orders in terms of clause (iii) of Rules 9 of A.P.C.S.(CCA) Rules, 1991.

Dr. Y. Anjaneyulu, Assistant Director (Animal Husbandry) is directed to submit his explanation, if any, to Government within ten days from the date of receipt of this Memo, failing which, it will be construed that he has no explanation to offer and further action will be taken ex parte, based on the material available on record with the Government."

A perusal of the show-cause notice dated 10.7.2001 would show that the disciplinary authority had recorded his reasons for disagreement with the findings of the enquiry officer. While a copy of the enquiry report was furnished along with the said Memo dated 10.7.2001, the petitioner was merely asked to show cause

as to why a major penalty should not be imposed on him besides recovery of Rs.80,000/- being the pecuniary loss caused to the government on account of his negligence. Principles of natural justice, as laid down in the afore-mentioned judgments of the Apex Court, require that whenever the disciplinary authority disagrees with the enquiry authority on any or all the articles of charge, it must record its tentative reasons for such disagreement and give the delinquent officer an opportunity to represent before it records its findings on such charges. The delinquent officer is entitled to a copy of the enquiry report and an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The petitioner has been denied this opportunity.

DISCIPLINARY AUTHORITY MUST PASS A REASONED ORDER, MORE SO IN CASES WHERE IT DISAGREES WITH THE ENQUIRYOFFICER'S REPORT:

We also find considerable force in the other submission of Sri B. Adinarayana Rao, learned counsel for the petitioner that the impugned order of punishment dated 08.01.2002 is bereft of reasons. After the petitioner had submitted his explanation to the show cause notice, the Government, vide G.O.Ms.No. 8 dated 08.01.2002 whereby the petitioner was dismissed from service, after extracting the charges held as under:

"And whereas, after careful examination of the explanation submitted by the individual, vide reference third read above Govt. have appointed Dr.R. Mohan Rao, Director of Animal Husbandry, as Enquiry Officer to conduct detailed enquiry into the matter vide G.O. sixth read above. The Enquiry Officer has submitted his report in the reference 7th read above.

And whereas, the Government has examined the Enquiry Report and disagreed with the finds of the Enquiry Officer. Accordingly a show cause notice was issued to Dr. Y. Anjaneyulu, Assistant Director (AH), under suspension with reasons for disagreeing with the findings of the Enquiry Officer while enclosing the Enquiry Officers report with a direction to submit his explanation within ten days vide reference 8th read above.

And whereas Dr. Y. Anjaneyulu, Assistant Director (AH), under suspension, has submitted his explanation in the reference ninth read above has denied the charges framed against him and requested the Government that taking into account the evidence adduced before the court and the Departmental Enquiry he was not found guilty of the charges and he may be exonerated and reinstated into service.

And whereas the Government after careful examination of the report of the Enquiry Officer and the explanation of the individual, connected records and in consultation with the Andhra Pradesh Public Service Commission have decided to dismiss the said accused officer Dr. Y. Anjaneyulu, Assistant Director (Animal Husbandry), Under Suspension, Hyderabad with immediate effect besides recovery of an amount of Rs.80,000/- (Rupees eighty thousand only) being the loss caused to the government.

Now, therefore, in exercise of the powers conferred by clause (x) of rule 9 read with clause(i) of Rule 25 of the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 the Government hereby dismiss the said Dr. Y. Anjeneyulu, Assistant Director (Animal Husbandry) under suspension from service with immediate effect and further order that an amount of Rs.80,000/- (Rupees eighty thousand only) being the loss caused to Government be recovered from him."

A perusal of the impugned order of punishment, in G.O.Ms.No.8 dated 8.1.2002, would show that the government had merely extracted the charges and had held that after examination of the enquiry officer's report, the explanation of the petitioner, the connected records and in consultation with the A.P.P.S.C, it had decided to dismiss the petitioner. The impugned order of punishment, except for stating that the explanation of the petitioner was considered, does not deal, even in brief, with the contentions raised by the petitioner in his explanation to the show cause notice issued in Memo dated 10.7.2001. Neither are reasons assigned as to why the objections raised by the petitioner do not merit acceptance nor does the order even record the Disciplinary authority's concurrence with his earlier tentative findings in the show cause notice dated 10.07.2001.

It is necessary for a disciplinary or administrative authority exercising quasi-judicial functions to state the reasons in support of its order if it differs from the conclusions arrived at and the recommendations made by the enquiring officer. **(Tara Chand Khatri v. Municipal Corpn. of Delhi**[6]

In **State of Rajasthan v. M.C. Saxena**[7], the Supreme Court held thus:-

"……..**It is well settled that the Disciplinary Authority can disagree with the findings arrived at by the enquiring officer and act upon his own conclusion, but the only requirement is that the said Disciplinary Authority must record reasons for his disagreement with the findings of the Enquiry Officer. If the Disciplinary Authority gives reasons for disagreeing with the findings of the enquiring officer then the Court cannot interfere with those findings unless it comes to the conclusion that no reasonable man can come to the said finding…..**"

In **Bank of India v. Degala Suryanarayana**[8], the Supreme Court held thus:-

"……**The law is well settled. The disciplinary authority on receiving the report of the enquiry officer may or may not agree with the findings recorded by the latter. In case of disagreement, the disciplinary authority has to record the reasons for disagreement and then to record his own findings if the evidence available on record be sufficient for such exercise or else to remit the case to the enquiry officer for further enquiry and report…….**" **(emphasis supplied)**

The requirement of recording reasons would (*i*) guarantee consideration by the authority; (*ii*) introduce clarity in the decisions; and (*iii*) minimise chances of arbitrariness in decision-making. Recording of reasons by an authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a degree of fairness in the process of decision-making. The

requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It is not required that the reasons should be as elaborate as in the decision of a court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge. (**S.N. Mukherjee Vs. Union of India**[9]). Reasons are the live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before the Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of the sphinx" is ordinarily

incongruous with a judicial or quasi-judicial performance. (**Cyril Lasrado v. Juliana Maria Lasrado**[10])

The impugned order of punishment is bereft of reasons. The order in G.O.Ms.No.2 dated 8.1.2002 is liable to be quashed on the grounds that (1) the petitioner was not put on notice prior to the disciplinary authority deciding to differ with the findings of the enquiry officer and (2) the order of the disciplinary authority, imposing on the petitioner the punishment of dismissal from service, is bereft of reasons. The A.P.A.T in its order in O.A.1508 of 2002 dated 25.5.2005 did not consider these aspects and its order, therefore, must also be set aside. Needless to state that this order shall not preclude the respondents from taking further action against the petitioner in accordance with law.

The writ petition is allowed. However, in the circumstances, without costs.

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B.PRAKASH RAO,J

Date : -07-2006

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RAMESH RANGANATHAN,J

MRKR/ASP

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[1] (1999)7 SCC 739

[2] (2003)2 SCC 449

[3] (1998) 7 SCC 84

[4] (2004) 8 SCC 653

[5] (2004) 13 SCC 797

[6] (1977) 1 SCC 472)

[7] (1998) 3 SCC 385

[8] (1999) 5 SCC 762

[9] (1990) 4 SCC 594

[10] (2004) 7 SCC 431